

1 HB21
2 171736-1
3 By Representatives Hill (M), Baker, Collins, Faust, Rowe,
4 Sanderford, Brown, Wood, Poole and Tuggle
5 RFD: Ways and Means General Fund
6 First Read: 08-SEP-15

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8 SYNOPSIS: Under current law, all entities doing
9 business or registered to do business in Alabama,
10 have an annual filing obligation for Business
11 Privilege Tax. The Business Privilege Tax is
12 calculated based on an entity's net worth,
13 apportioned to Alabama. There is a minimum of \$100
14 Business Privilege Tax imposed annually on all
15 entities subject to this tax. Currently, most
16 taxpayers have an annual maximum Business Privilege
17 Tax due of \$15,000. The Business Privilege Tax rate
18 is determined by the taxpayer's federal taxable
19 income, apportioned to Alabama.

20 In addition, under current law, the Business
21 Privilege Tax due date for financial institutions
22 is March 15. The Alabama Excise Tax return filed by
23 financial institutions is due April 15. Taxpayers
24 often need to extend the filing date of the
25 Business Privilege Tax in order to have complete
26 information not available until the financial
27 institution Excise Tax return is completed. All

1 other entity types have corresponding due dates for
2 both the Business Privilege Tax and the Alabama
3 Income Tax return.

4 This bill would eliminate the annual
5 Business Privilege Tax filing obligation for all
6 business entities with less than \$10,000 in Alabama
7 taxable net worth.

8 This bill increases the annual maximum
9 amount of Business Privilege Tax due from \$15,000
10 to \$30,000, and increases tax rates and the minimum
11 tax due.

12 This bill increases the minimum tax rates
13 for financial institutions and will require
14 financial institutions with in-state deposits to
15 calculate their tax based on those deposits.

16 This bill amends the Business Privilege Tax
17 due date for taxpayers subject to the financial
18 institution Excise Tax from March 15 to April 15,
19 to provide for corresponding tax return due dates
20 for financial institutions.

21 In addition, Section 12 of Act 99-665, as
22 amended by Act 2000-705, is codified by this bill
23 as part of Section 40-14A-22. Other technical
24 corrections from these acts are also codified by
25 this bill.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

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4 To amend Sections 40-14A-22, 40-14A-23 and
5 40-14A-25, Code of Alabama 1975, to eliminate the annual
6 Business Privilege Tax obligation for all business entities
7 with less than \$10,000 in Alabama taxable net worth; to
8 increase the annual maximum amount of Business Privilege Tax
9 due from \$15,000 to \$30,000; to increase the annual minimum
10 amount of Business Privilege Tax due from \$100 to \$125; to
11 increase the Business Privilege Tax rates; to require
12 financial institutions with in-state deposits to calculate
13 their tax based on those deposits; to amend the Business
14 Privilege Tax due date for taxpayers subject to the financial
15 institution Excise Tax from March 15 to April 15, to provide
16 for corresponding tax return due dates for financial
17 institutions; and to codify Section 12 of Act 99-665, as
18 amended by Act 2000-705, as part of Section 40-14A-22.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall be known as the Small
21 Business Tax Elimination Act.

22 Section 2. Sections 10A-2-16.22, 40-14A-22,
23 40-14A-23 and 40-14A-25 are hereby amended to read as follows:

24 "§10A-2-16.22.

25 "(a) Each domestic corporation, and each foreign
26 corporation authorized to transact business in this state,

1 shall deliver to the Secretary of State for filing an annual
2 report that sets forth:

3 "(1) The name of the corporation and the state or
4 other jurisdiction under whose law it is incorporated;

5 "(2) The address of its registered office and the
6 name of its registered agent at that office in this state;

7 "(3) The address of its principal office including,
8 in the case of a foreign corporation, the address of its
9 principal office in the state or other jurisdiction under
10 whose law it is incorporated;

11 "(4) The names and respective addresses of its
12 president and secretary; and

13 "(5) A brief statement of the character of business
14 in which it is actually engaged in this state.

15 "(b) Information in the annual report must be
16 current as of the date the annual report is executed on behalf
17 of the corporation.

18 "(c) The first annual report must be delivered to
19 the Secretary of State between January 1 and March 15 of the
20 year following the calendar year in which a domestic
21 corporation was incorporated or a foreign corporation was
22 authorized to transact business. Subsequent annual reports
23 must be delivered to the Secretary of State between January 1
24 and March 15 of the following calendar years.

25 "(d) If an annual report does not contain the
26 information required by this section, the Secretary of State
27 shall promptly notify the reporting domestic or foreign

1 corporation in writing and return the report to it for
2 correction. If the report is corrected to contain the
3 information required by this section and delivered to the
4 Secretary of State within 30 days after the effective date of
5 notice, it is deemed to be timely filed.

6 ~~"(e) The public record information filed with the~~
7 ~~Department of Revenue, pursuant to Chapter 14A of Title 40~~
8 ~~shall constitute and be accepted in lieu of the annual report~~
9 ~~required pursuant to this section, provided that a A ten~~
10 dollar (\$10) fee for the State of Alabama shall accompany the
11 public record information filed by the corporation annually
12 with the ~~Department of Revenue~~ Secretary of State. The fee for
13 the annual report shall be deposited in the State Treasury to
14 the credit of the Secretary of State Entity Fund as prescribed
15 by Section 10A-1-4.31.

16 "§40-14A-22.

17 "(a) Levy of tax. There is hereby levied an annual
18 privilege tax on every corporation, limited liability entity,
19 and disregarded entity doing business in Alabama, or
20 organized, incorporated, qualified, or registered under the
21 laws of Alabama. The tax shall accrue as of January 1 of every
22 taxable year, or in the case of a taxpayer organized,
23 incorporated, qualified, or registered during the year, or
24 doing business in Alabama for the first time, as of the date
25 the taxpayer is organized, incorporated, registered, or
26 qualifies to do business, or begins to do business in Alabama,
27 as the case may be. The taxpayer shall be liable for the tax

1 levied by this article for each year beginning before the
 2 taxpayer has been dissolved or otherwise ceased to exist or
 3 has withdrawn or forfeited its qualification to do business in
 4 Alabama. The amount of the tax due shall be determined by
 5 multiplying the taxpayer's net worth in Alabama by the rate
 6 determined in subsection (b).

7 "(b) Rate of tax. ~~For all taxable years of taxpayers~~
 8 ~~that begin after December 31, 1999, the rate of tax shall be~~
 9 ~~as set forth below.~~ For all tax returns due after December 31,
 10 2015, the rate of tax shall be as set forth below:

11 If taxable income of
 12 the taxpayer is:

	at least	but less than	The tax rate shall
			be
		\$1	<u>\$0.31</u> \$0.25 per \$1,000
	\$1	\$200,000	<u>\$1.25</u> \$1.00 per \$1,000
	\$200,000	\$500,000	<u>\$1.56</u> \$1.25 per \$1,000
	\$500,000	\$2,500,000	<u>\$1.87</u> \$1.50 per \$1,000
	\$2,500,000		<u>\$2.19</u> \$1.75 per \$1,000

1 "(c) Exemption.

2 "(1) For purposes of this section, Alabama taxable
3 net worth will be computed in the manner prescribed by this
4 Chapter.

5 "(2) All entities, subject to the tax levied in
6 Title 40, Chapter 14A, with Alabama taxable net worth less
7 than \$10,000 are relieved from filing an annual Business
8 Privilege Tax return and the associated tax liability.

9 "~~(c)~~ (d) Minimum tax. Except as provided in
10 subsection ~~(f)~~ (g), the privilege tax levied by this article
11 on certain corporations, business trusts, limited liability
12 entities, and disregarded entities shall not be less than
13 ~~\$100~~\$125.

14 "~~(d)~~ (e) Maximum tax.

15 "(1) Except as provided in subdivision (2), the
16 privilege tax levied by this article shall not exceed ~~\$15,250~~
17 \$30,000 for any taxpayer ~~for the taxable year beginning~~
18 ~~January 1, 2000. For each taxable year thereafter, the maximum~~
19 ~~tax shall not exceed \$15,000 for any taxpayer, except as~~
20 ~~provided in subdivision (2).~~

21 "(2) With respect to any (i) financial institution
22 groups as defined in subsection ~~(f)~~ (g) (1); (ii) insurance
23 company that is subject to the premium taxes levied by Chapter
24 4A of Title 27; and (iii) corporation, company, limited
25 liability entity, or association whose property is assessed

1 for taxation pursuant to the provisions of Chapter 21 and is
2 also obligated to serve the general public, but is not subject
3 to the Alabama Corporate Income tax, the privilege tax levied
4 by this article shall not exceed \$3,000,000, for any taxpayer
5 or, for a financial institution group, for the financial
6 institution group as a whole each year except as provided in
7 subsection ~~(e)~~ (f). ~~With respect to any real estate investment~~
8 ~~trust as defined in Chapter 13 of Title 10, the privilege tax~~
9 ~~levied by this article shall not exceed \$500,000, for any~~
10 ~~taxpayer each year except as provided in subsection (e).~~ The
11 privilege tax levied by this article on any electing family
12 limited liability entity shall not exceed \$500.

13 "The privilege tax levied by this article on any
14 corporation organized as a not-for-profit corporation that
15 does not engage in any business other than holding title to
16 property and paying the expenses thereof, including, without
17 limitation, a property owners' association or a corporation
18 organized solely to hold title to property on a temporary
19 basis, shall not exceed ~~\$100~~\$125.

20 "~~(e)~~ (f) Short taxable years. If any taxpayer's
21 taxable year is less than 12 months because the taxpayer ~~is~~
22 ~~incorporated or organized within the taxable year, or if any~~
23 ~~foreign corporation or foreign limited liability entity~~
24 ~~qualifies, registers, or begins to do business in this state~~
25 ~~within the taxable year or~~ converts to a taxable year other
26 than the calendar year, the amount of the tax levied by this
27 article shall be determined in the manner specified in this

1 article but apportioned to the short taxable year in same
2 proportion as the number of days in the short taxable year
3 bears to 365, but in no event less than ~~\$100~~\$125 nor more than
4 the applicable amount specified in subsection ~~(d)~~ (e).

5 "~~(f)~~ (g) Minimum taxes for financial institution
6 groups.

7 "(1) For purposes of this subsection, the following
8 terms shall mean:

9 "a. Affiliated Group. (i) One or more chains of
10 corporations or limited liability entities connected through
11 the ownership of stock or ownership interests with a common
12 parent which is a corporation or limited liability entity, but
13 only if the common parent owns directly stock or ownership
14 interests meeting the requirements of item (ii) in at least
15 one of the other corporations or limited liability entities,
16 and only if stock or ownership interests meeting the
17 requirements of item (ii) in each of the corporations or
18 limited liability entities (except the common parent) is owned
19 directly by one or more of the other corporations or limited
20 liability entities. (ii) The ownership of stock or ownership
21 interests of any corporation or limited liability entity meets
22 the requirements of this paragraph if it possesses at least 80
23 percent of the total voting power or capital and profits
24 interest of the corporation or limited liability entity.

25 "b. Financial Institution. The meaning given in
26 Section 40-16-1.

1 "c. Financial Institution Group. All taxpayers in an
2 affiliated group where at least one member of the group is a
3 financial institution that is subject to the provisions of
4 Chapter 16. In the event a financial institution taxpayer is
5 not a member of an affiliated group, that financial
6 institution shall be treated as a financial institution group.

7 "(2) To the extent that the members of a financial
8 institution group have different taxable years, the group
9 shall be deemed, for purposes of the business privilege tax
10 ~~and corporate shares tax~~ levied by ~~Articles 2 and 3~~ Article 2,
11 to have a calendar taxable year.

12 "(3) Taxpayers who are members of a financial
13 institution group shall complete their ~~corporate shares tax~~
14 ~~and~~ business privilege tax returns without regard to this
15 subsection. Those taxpayers shall submit their returns
16 together, and the minimum tax amount provided in subdivision
17 (5) shall apply to the aggregate business privilege tax ~~and~~
18 ~~corporate shares tax~~ liability of the group. To the extent
19 that the minimum amount provided in subdivision (5) applies to
20 determine the liability of the group, each taxpayer which is a
21 member of the group shall be liable for that portion of the
22 group liability which is equal to the amount multiplied by the
23 ratio of the taxpayer's liability without regard to this
24 subsection over the liability of the group without regard to
25 this subsection. Upon the annual election of the common
26 parent, a financial institution group may file a single
27 return, executed by the common parent of that financial

1 institution group. The return shall be completed as if the
2 financial institution group were a single taxpayer. Each
3 member of the financial institution group shall be jointly and
4 severally liable for the group's business privilege tax and
5 corporate shares tax liabilities.

6 "~~(4) For the taxable year beginning January 1, 2000,~~
7 ~~the tax returns of all members of a financial institution~~
8 ~~group shall be due July 10, 2000. For taxable years beginning~~
9 ~~after December 31, 2000, the tax returns for all members of a~~
10 ~~financial institution group shall be due March 15 of the~~
11 ~~taxable year. The tax returns for all members of a financial~~
12 ~~institution group shall be due no later than three and one~~
13 ~~half months after the beginning of the taxable year.~~

14 Extensions for filing these returns shall not be granted
15 ~~beyond September 15 of the taxable year for more than five~~
16 ~~months. For the return due July 10, 2000, any corporate shares~~
17 ~~taxes and business privilege taxes accrued and paid by any~~
18 ~~member of the financial institution group before July 10,~~
19 ~~2000, shall be applied against the minimum tax amount provided~~
20 ~~in subdivision (5).~~

21 "(5) For taxable years beginning on or after January
22 1, ~~2000~~2016, the minimum aggregate business privilege ~~and~~
23 ~~corporate shares taxes~~ tax levied by ~~Articles 2 and 3~~ Article
24 2 on all members of a financial institution group shall be:

25 "a. For financial institutions with total deposits
26 inside Alabama of less than one billion dollars
27 (\$1,000,000,000) within that financial institution group, as

1 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the
2 immediately preceding taxable year, the tax rate shall be
3 ~~\$.125~~\$.135 per one thousand dollars (\$1,000) of such deposits.
4 For deposit rate purposes for all future periods, the deposits
5 shall in no event be less than the deposits listed as of June
6 30, 1999.

7 "b. For financial institutions with total deposits
8 inside Alabama of one billion dollars (\$1,000,000,000) or
9 greater up to and including six billion dollars
10 (\$6,000,000,000) within that financial institution group, as
11 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the
12 immediately preceding taxable year, the tax rate shall be
13 ~~\$.17~~\$.17167 per one thousand dollars (\$1,000) of such
14 deposits. For deposit rate purposes for all future periods,
15 the deposits shall in no event be less than the deposits
16 listed as of June 30, 1999.

17 "c. For financial institutions with total deposits
18 inside Alabama greater than six billion dollars
19 (\$6,000,000,000) within that financial institution group, as
20 reported to the FDIC, OTS, or the NCUSIF as of June 30 of the
21 immediately preceding taxable year, the tax rate shall be
22 ~~\$.225~~\$.22575 per one thousand dollars (\$1,000) of such
23 deposits. For deposit rate purposes for all future periods,
24 the deposits shall in no event be less than the deposits
25 listed as of June 30, 1999.

26 "d. Provided, however, that in the case of a
27 financial institution group that, as of June 30, 1999, (i) had

1 total deposits of less than one billion dollars
2 (\$1,000,000,000) and (ii) derived at least a majority of its
3 deposits, as reported to FDIC, OTS, or NCUSIF, that were
4 booked to one or more branches or offices located within
5 Alabama from account holders whose addresses of record on the
6 books of the financial institution group were outside the
7 State of Alabama, the phrase "total deposits in Alabama," for
8 purposes of calculating the minimum aggregate business
9 privilege ~~and shares tax~~ levied by ~~Articles 2 and 3~~ Article 2
10 for all taxable years beginning on and after January 1, 2000,
11 shall only include deposits of account holders whose addresses
12 of record on the books of the financial institution group are
13 inside the State of Alabama.

14 "e. In the event a financial institution group sells
15 Alabama deposits to another financial institution group that
16 reports those deposits in Alabama for purposes of Act
17 2000-705, those deposits shall not be taxed more than once
18 pursuant to the provisions of Act 2000-705 in the same taxable
19 year. The liability for such taxes shall be the responsibility
20 of the purchaser, and the tax base for the selling group shall
21 be adjusted accordingly.

22 "f. In the event an existing financial institution
23 group reports deposits in any year less than 96.5 percent of
24 the deposits reported as of June 30, 1999, the alternative
25 minimum tax shall be based on the deposits reported as of June
26 30, 1999. In the event an existing financial institution group
27 reports deposits in any year more than 96.5 percent of the

1 deposits reported as of June 30, 1999, the alternative minimum
2 tax shall be based on the deposits reported for that taxable
3 year. For financial institutions coming into existence after
4 June 30, 1999, the deposits upon which the alternative minimum
5 tax is based shall not be less than the deposits reported the
6 first full year that financial institution reported deposits
7 to the FDIC, OTS, or NCUSIF.

8 "§40-14A-23.

9 (a) Net worth of corporation. The net worth of a
10 corporation shall equal the aggregate net amount of the
11 following items determined as of the first day of the
12 corporation's taxable year and adjusted as required in this
13 article:

14 (1) In the case of a corporation, the sum of the
15 following:

16 a. The issued capital stock and any additional
17 paid-in capital, without reduction for treasury stock; and

18 b. Retained earnings, but not less than zero, which
19 shall include any amounts designated for the payment of
20 dividends until the amounts are definitely and irrevocably
21 placed to the credit of stockholders subject to withdrawal on
22 demand, and

23 (2) In the case of an entity taxed as a corporation
24 under this article that does not issue stock, the difference
25 between the book value of the entity's assets and liabilities,
26 but not less than zero.

1 (b) Net worth of limited liability entities. The net
2 worth of a limited liability entity shall be an amount equal
3 to the sum, but not less than zero, of the capital accounts of
4 the owners of the limited liability entity determined as of
5 the first day of the taxable year of the entity and as further
6 adjusted pursuant to this article.

7 (c) All the items that would enter into determining
8 a disregarded entity's net worth shall be instead taken into
9 account in determining the net worth of its owner, and the net
10 worth of the disregarded entity shall be zero. Provided,
11 however, that if the owner of the disregarded entity is an
12 individual, general partnership, or other entity not subject
13 to this tax, the net worth of the disregarded entity shall be
14 equal to the assets minus the liabilities of the disregarded
15 entity.

16 (d) Net worth of business trusts classified as
17 corporations. The net worth of a business trust classified as
18 an association taxable as a corporation for federal income tax
19 purposes shall be equal to the book value of the assets minus
20 the liabilities of the business trust but not less than zero.

21 (e) Additions to net worth.

22 (1) Additions to net worth may be positive amounts
23 only.

24 (2) Net worth shall include related-party debt in
25 certain situations as follows:

26 a. If a taxpayer is indebted to related parties in
27 an amount that exceeds the net worth of the taxpayer

1 determined under subsections (a), (b), or (c), then the amount
2 of the excess shall be included in the net worth of the
3 taxpayer.

4 b. For purposes of this subsection, the terms
5 "debt," "indebted," and "indebtedness" shall not include trade
6 debt, accounts payable, or deposit liabilities to related
7 parties that are doing business in Alabama.

8 (f) There shall be added to net worth, as determined
9 above, compensation and distributions paid or accrued in
10 certain situations.

11 (1) CORPORATIONS OTHER THAN ALABAMA S CORPORATIONS.

12 a. For a C corporation, net worth shall include
13 compensation or similar amounts paid or accrued to a direct or
14 indirect shareholder if such shareholder owns at least a 5%
15 capital, profits, or voting interest in such corporation, to
16 the extent such amount exceeds \$500,000 with respect to each
17 shareholder in the determination period. The rules of 26
18 U.S.C. §267(c) shall apply in determining whether an
19 individual is a direct or indirect shareholder who owns at
20 least a 5% capital, profits, or voting interest in such
21 corporation.

22 b. All compensation or similar amounts paid or
23 accrued to shareholders described in paragraph a. shall be
24 aggregated if such shareholders are members of the same family
25 as described in 26 U.S.C. §267(b)(1), unless the shareholders
26 are 21 years of age or older and materially participate in the
27 business.

1 c. Compensation or similar amounts paid or accrued
2 to a person not described in paragraphs a. and b. shall be
3 included in such aggregate amount if such person is related to
4 any of the shareholders described in paragraphs a. and b., in
5 accordance with the rules of 26 U.S.C. §267(b)(1), unless the
6 person is 21 years of age or older and materially participates
7 in the business.

8 (2) ALABAMA S CORPORATIONS.

9 a. For an Alabama S corporation, add to the above
10 net worth the sum of compensation, distributions or similar
11 amounts paid or accrued to a direct or indirect shareholder if
12 that shareholder owns at least a 5% capital, profits, or
13 voting interest in the corporation, to the extent such amounts
14 exceed \$500,000 with respect to each shareholder in the
15 determination period. The rules of 26 U.S.C. §267(c) shall
16 apply in determining whether an individual is a direct or
17 indirect shareholder who owns at least a 5% capital, profits,
18 or voting interest in the corporation.

19 b. All compensation, distributions, or similar
20 amounts paid or accrued to shareholders described in paragraph
21 a. shall be aggregated if such shareholders are members of the
22 same family as described in 26 U.S.C. §267(b)(1), unless the
23 shareholders are 21 years of age or older and materially
24 participate in the business.

25 c. Compensation or other similar amounts and
26 distributions paid or accrued to a person not described in
27 paragraphs a. and b. shall be included in such aggregate

1 amount if such person is related to any of the shareholders
2 described in paragraphs a. and b., in accordance with the
3 rules of 26 U. S. C. §267(b)(1), unless the person is 21 years
4 of age or older and materially participates in the business.

5 (3) LIMITED LIABILITY ENTITIES.

6 a. For a limited liability entity, net worth shall
7 include compensation, distributions or similar amounts paid or
8 accrued to each direct or indirect partner or member to the
9 extent the amounts exceed \$500,000 with respect to each
10 partner or member in the determination period. In determining
11 whether an individual is an indirect partner or member, the
12 principles of 26 U.S.C. §267(c) shall apply.

13 b. All compensation, distributions, or similar
14 amounts paid or accrued to partners or members described in
15 paragraph a. shall be aggregated if such partners or members
16 are members of the same family as described in 26 U.S.C.
17 §267(b)(1), unless the partners or members are 21 years of age
18 or older and materially participate in the business.

19 c. Compensation, distributions, or other similar
20 amounts paid or accrued to a person not described in
21 paragraphs a. and b. shall be included in such aggregate
22 amount if such person is related to any of the partners or
23 members described in the paragraphs a. and b., in accordance
24 with the rules of 26 U.S.C. §267(b)(1), unless the person is
25 21 years of age or older and materially participates in the
26 business.

27 (4) DISREGARDED ENTITIES.

1 a. For a disregarded entity, net worth shall include
2 compensation, distributions, or similar amounts paid or
3 accrued to a direct or indirect owner to the extent the amount
4 exceeds \$500,000 in the determination period. In determining
5 whether an individual is an indirect owner, the principles of
6 26 U.S.C. §267(c) shall apply.

7 b. All compensation, distributions, or similar
8 amounts paid or accrued to an owner or indirect owners
9 described in paragraph a. shall be aggregated if the owner or
10 indirect owners are members of the same family as described in
11 26 U.S.C. §267(b)(1), unless the owner or indirect owners are
12 21 years of age or older and materially participate in the
13 business.

14 c. Compensation, distributions, or similar amounts
15 paid or accrued to persons not described in paragraphs a. and
16 b. shall be included in the aggregate amount if the person is
17 related to any of the owners described in paragraphs a. and
18 b., in accordance with the rules of 26 U.S.C. §267(b)(1),
19 unless the person is 21 years of age or older and materially
20 participates in the business.

21 (g) From the sum of the items and additions to net
22 worth determined in subsections (a) through (f), the following
23 items shall be subtracted:

24 (1) The book value of the investment by the taxpayer
25 in the equity of any other taxpayer (including any excess
26 related-party debt described in paragraph (e)(2)a. that is
27 included in the net worth of the taxpayer) that is doing

1 business in Alabama. The subtraction shall not include the
2 book value of any security held by a dealer primarily for sale
3 to customers in the ordinary course of its trade or business
4 pursuant to 26 U.S.C. §1236.

5 (2) In the case of financial institutions, the
6 investment by the taxpayer in the equity (including any excess
7 related-party debt added to net worth pursuant to paragraph
8 (e)(2)a.) of any other corporation or limited liability entity
9 that is not doing business in Alabama if the taxpayer owns
10 more than 50 percent of the outstanding capital stock of the
11 other corporation or more than 50 percent of the capital and
12 profits interest of the limited liability entity, unless the
13 other corporation or limited liability entity is dormant and
14 not regularly engaged in one or more business activities. A
15 corporation shall not be deemed dormant and shall be
16 considered regularly engaged in one or more business
17 activities if the corporation owns, directly or indirectly,
18 more than 50 percent of the outstanding capital stock of
19 another corporation regularly engaged in one or more business
20 activities. A corporation shall be deemed to directly or
21 indirectly own more than 50 percent of another corporation if
22 both corporations would be part of a controlled group of
23 corporations as defined in 26 U.S.C. §1563 if a 50 percent
24 ownership requirement were applied in lieu of the 80 percent
25 ownership requirement in 26 U.S.C. §1563.

26 (3) The unamortized portion of goodwill and core
27 deposit intangibles appearing on the taxpayer's balance sheet

1 by reason of a direct purchase of another corporation or
2 limited liability entity.

3 (4) The unamortized balance of any amount that the
4 taxpayer properly elected, pursuant to Pronouncement 106 of
5 the Financial Accounting Standards Board or any equivalent
6 successor authority, to amortize over a period of years rather
7 than immediately charging that amount to earnings.

8 (5) In the case of a financial institution, the
9 amount of net worth as adjusted pursuant to this section that
10 exceeds six percent of its assets.

11 (h) Net worth of Alabama financial institution
12 groups with Alabama deposits.

13 (1) For purposes of calculating the business
14 privilege tax of a financial institution group, as required by
15 Section 40-14A-22(a), the net worth of the financial
16 institution group with Alabama deposits shall be deemed to be
17 zero.

18 (2) For purposes of allocating the minimum business
19 privilege tax calculated pursuant to Section 40-14A-22(g) (5)
20 for a financial institution group to the members of the group
21 when required by Section 40-14A-22(g) (3), the actual net worth
22 of each member of the financial institution group with Alabama
23 deposits shall be used in calculating the base for allocating
24 the tax among the group members.

25 "§40-14A-25.

26 "(a) Every taxpayer shall file a privilege tax
27 return, ~~which shall include the public record disclosures~~

1 ~~required by Section 10-2B-16.22,~~ with the department for every
2 taxable year for which it is subject to the tax levied by this
3 article, except those exempt under 40-14A-22(c). A disregarded
4 entity that is owned by an individual, general partnership, or
5 other entity not subject to the tax levied by this article
6 shall file a return and pay the tax levied on it by this
7 article. Except as provided in ~~Section 40-14A-22(f) (4)~~
8 Section 40-14A-22(g) (4), ~~the return is due not later than~~
9 ~~March 15 of the taxable year for all taxpayers except limited~~
10 ~~liability entities for which the due date of the return shall~~
11 ~~be April 15 of the taxable year, or, in the case of a~~
12 ~~taxpayer's initial return, 30 days after the taxpayer comes~~
13 ~~into existence, qualifies or registers to do business, or~~
14 ~~commences doing business in Alabama as the case may be. For~~
15 ~~all taxable years beginning after December 31, 2000, a~~
16 corporation shall file the return required by this section not
17 later than two and one-half months after the beginning of the
18 corporation's taxable year; a limited liability entity shall
19 file the return required by this section not later than three
20 and one-half months after the beginning of the limited
21 liability entity's taxable year; and a disregarded entity that
22 is required to file a return by this section shall file the
23 return not later than the time its owner is required to file
24 its return. ~~If a taxpayer is required to change its taxable~~
25 ~~year pursuant to the previous sentence, then it shall file a~~
26 ~~return for the short taxable year beginning January 1, 2001,~~
27 ~~and ending on the day before the beginning of its new taxable~~

1 ~~year, and the return shall be filed not later than two and~~
2 ~~one-half months, if a corporation, and three and one-half~~
3 ~~months, if a limited liability entity, after the beginning of~~
4 ~~its new taxable year.~~ In cases where receivers, trustees in
5 bankruptcy, or assignees are operating the property or
6 business of taxpayers, those receivers, trustees, or assignees
7 shall file returns for the taxpayers in the same manner and
8 form as the taxpayers are required to file returns. Any tax
9 due on the basis of returns filed by receivers, trustees, or
10 assignees shall be collected in the same manner as if
11 collected from the taxpayers for whose business or property
12 they have custody and control. The department may grant a
13 reasonable extension of time for filing returns under rules
14 and regulations prescribed by the department. No extension
15 shall be for more than six months.

16 "(b) The tax provided in this article shall be
17 reported on forms and in the manner as prescribed by the
18 department. The failure to receive a form from the department
19 shall not relieve a taxpayer from liability for any tax,
20 penalty, or interest otherwise due. The tax due, as reported,
21 shall constitute an admitted liability for that amount. The
22 department may compute and assess additional tax, penalty, and
23 interest against a taxpayer as provided in Chapter 2A.
24 Interest on overpayments of business privilege tax will be
25 computed and paid in the manner provided in Section
26 40-1-44 (b) (1)b.

1 "(c) A corporation that is a member of an Alabama
2 affiliated group that has elected to file a consolidated
3 return pursuant to Section 40-18-39 or Section 40-16-3(b), if
4 it is subject to the tax imposed by this article, shall file a
5 separate return reporting and paying tax on its net worth
6 without regard to other members of the affiliated group."

7 Section 3. All laws or parts of laws which conflict
8 with this act are hereby repealed. Section 12 of Act 99-665,
9 as amended by Act 2000-705, is not repealed by this act.

10 Section 4. The provisions of this act are severable.
11 If any part of this act is declared invalid or
12 unconstitutional, that declaration shall not affect the part
13 that remains.

14 Section 5. This act shall become effective for all
15 Business Privilege Tax returns due after December 31, 2015,
16 following its passage and approval by the Governor or upon its
17 otherwise becoming law.